BOSTON PUBLIC LIBRARY
3 9999 10231 316 8
2356
82

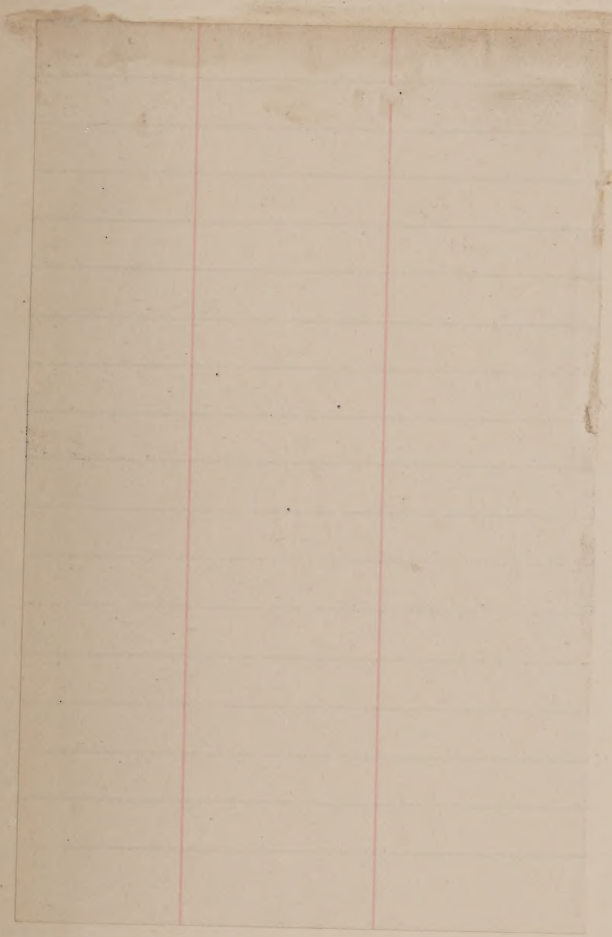
Harvard Business Library

SHELF 2356.82 NO.

Given By

H. A. May

May 2, 1894



THE

ASPINWALL LAND COMPANY,

PUBLIC LIBRARY
OF THE
CITY OF BOSTON
2 356.82

DEEDS

Conveying Property to the Trustees

AND

DECLARATION OF TRUST.

PUBLIC LIBRARY
OF THE
CITY OF BOSTON

1200 V9/3

Wm H. A. May.
May 4. 1877

DEED OF BROOKLINE LANDS.

2356.82

KNOW ALL MEN BY THESE PRESENTS: —

That I, William Aspinwall, of Brookline, in the County of Norfolk, Counsellor-at-Law, in consideration of one dollar and other good and valuable considerations to me paid by Edward I. Browne and Francis Bartlett, of Boston, in the County of Suffolk, Counsellors-at-Law, as they are Trustees for an unincorporated association of individuals known as the Aspinwall Land Company, under a declaration of trust dated this day, the receipt whereof is hereby acknowledged, do hereby grant, remise, release and forever quitclaim unto the said Browne and Bartlett and their heirs and assigns forever, but as Trustees as aforesaid, —

First. All that lot of land in Brookline, containing by estimation about fifty-six and $\frac{725}{1000}$ acres, be the same more or less, with the buildings thereon, bounded northeast by Washington Street, as lately widened, seven hundred and ninety-four $\frac{41}{100}$ feet, southeast by land of Blake seven hundred and thirty-nine $\frac{32}{100}$ feet, southwest by the same one hundred and fifty-nine $\frac{57}{100}$ feet, southeast again by the same three hundred and eighty-seven $\frac{46}{100}$ feet, east-southeast by the same fifty-one $\frac{85}{100}$ feet, southeast again by the same eight hundred and fifteen $\frac{32}{100}$ feet (and for further description of the courses of the last three lines reference may be had to the indenture recorded with

Norfolk Deeds, Lib. 251, fol. 181, and the plan therewith recorded), southwest by land of the heirs of Robert S. Davis, deceased, eight hundred and two $\frac{63}{100}$ feet, east by the same thirty-two feet, south by land of William I. Bowditch seventy-six feet, west by the same thirty-seven feet, southwest in part by the same and partly by land late of the devisees of Susanna A. Tappan, deceased, and now supposed to belong to the Trustees of Boston University, five hundred and eighty-four $\frac{5}{10}$ feet, northwest by land late of said devisees and now of said University six hundred and seventy-eight $\frac{62}{100}$ feet, southwest by the same one hundred and fifty $\frac{25}{100}$ feet, northwest again by the same five hundred and seventy-two $\frac{31}{100}$ feet, north by Washington Street, as lately widened, nine hundred and seventy $\frac{40}{100}$ feet, southeast by land late of the heirs-at-law of Susanna A. Tappan, and now supposed to belong to the Trustees of Boston University, six hundred and seventy-six $\frac{8}{100}$ feet, northeast by the same six hundred and thirty-seven $\frac{65}{100}$ feet, northwest by the same two hundred and three $\frac{7}{100}$ feet, westerly, southwesterly, westerly, southwesterly and northwesterly again by the same on eight lines as shown on the plan of division of the late Juliana Aspinwall's estate, according to indenture dated Nov. 15, 1855, and recorded with Norfolk Deeds, Lib. 242, fol. 21, and the plan recorded therewith between folios 21 and 22, one hundred and five $\frac{32}{100}$ feet, one hundred and ninety-nine $\frac{82}{100}$ feet, three hundred and twenty-nine $\frac{12}{100}$ feet, sixty-three $\frac{75}{100}$ feet, one hundred and sixty-seven $\frac{93}{100}$ feet, sixty-four $\frac{83}{100}$ feet, sixty-four $\frac{99}{100}$ feet, and one hundred and twenty-seven $\frac{10}{100}$ feet, to the first bounds on Washington Street, as widened as aforesaid.

That portion of the granted premises which was formerly known by Dr. William Aspinwall as his North field, and devised by him to his sons Thomas and Augustus, and that portion which formed that part of his Middle field, formerly so called, and which was devised by him to his son Thomas, have a right of way over land formerly owned by the devisees of said Susanna A. Tappan, as set forth in the will of said Dr. William Aspinwall, dated Sept. 29, 1820, and recorded with Norfolk Probate Records, Vol. 40, page 367.

That portion of the granted premises which includes those parts of the Middle field devised by Dr. Aspinwall to his sons Thomas and Augustus, and those portions of the granted premises which formerly belonged to the late Juliana Aspinwall, and which in the partition of her estate were conveyed to the said Thomas and Augustus, have certain rights of way in, upon and over three cart roads, numbered one (1), two (2), and three (3) on the plan accompanying said division, and also in, upon and over the carriage way described in said indenture and shown on said plan, and by indenture dated Nov. 15, 1855, and recorded Lib. 242, fol. 26, and the plan therein referred to, recorded between folios 26 and 27; the carriage way and a large part of cart road numbered two (2) have been widened, and a portion of cart road numbered one (1) has been discontinued, and the granted premises are conveyed with all legal rights to use all three of said cart roads and said carriage way as now existing, and subject to the legal rights of said Boston University to use said carriage way and cart road numbered one (1) so far as the same run over the granted premises; and for further description of these rights of way and easements reference

is hereby made to the will of Dr. Aspinwall, the indenture of division of the estate of said Juliana and the subsequent indenture and plan above referred to; each and all parties using said cart roads and carriage way being under obligation to bear their fair share of the expense of keeping the same in good condition and repair. There was originally no right of way over either of said cart roads or said carriage way (so far as these ways run over land of said University) as appurtenant to those parts of the granted premises formerly known as the North field, and the lot bought by said Thomas Aspinwall of Otis Withington by deed, dated June 4, 1857, and recorded with Norfolk Deeds, Lib. 256, fol. 161, and no such right now exists, except such rights (if any) as may have been acquired by use, but all such rights acquired by use, if any such there be, are hereby conveyed.

I own the barn and shed now standing on land of said University lying west of said carriage way, and by the terms of the indenture of division of the estate of said Juliana, have a right to remove the same whenever the owners of the land on which the same stand shall require such removal, and I convey to said grantees the said buildings without any land under the same, but with the right to remove said buildings when legally required so to do.

The stone wall standing on part of the division line between the granted premises and land of Blake, although not exactly coinciding with the true boundary line as established by the indenture before referred to, shall remain forever as it now is, and shall not be removed or altered in any way or manner except by mutual consent of the owners of both estates.

That portion of the granted premises which formerly

made part of the Garden lot, so called, owned by Augustus Aspinwall, is conveyed subject to a charge of five thousand dollars, now due and owing to my sister Eliza K. Domville, as will appear by the codicil to the will of said Augustus Aspinwall, proved at Norfolk County Probate Court, Aug. 19, 1865, and by my declaration of trust recorded with Norfolk Deeds, Lib. 515, fol. 40. My present homestead, containing with this Garden lot about eleven and one half acres of land, part of the granted premises, is subject to four mortgages all made by me, one to William I. Bowditch, trustee, dated May 26, 1866, for twenty-five hundred and thirty-three dollars, recorded Lib. 342, fol. 295, one to Edward W. Pray, for four thousand dollars, dated March 22, 1867, and recorded Lib. 351, fol. 221, one to Sarah R. H. Bowditch for five thousand dollars, dated March 3, 1869, and recorded Lib. 376, fol. 201 (all now believed to be held by Robert Treat Paine), and one to said Paine for ten thousand dollars, dated March 20, 1874, and recorded Lib. 453, fol. 58. My title to the premises is derived partly from the will of my father, the late Thomas Aspinwall, recorded with Suffolk Probate Records, Vol. 492, page 72, and partly from the deed of Thomas Aspinwall and others, trustees, dated April 19, 1870, and recorded with Norfolk Deeds, Lib. 392, fol. 63.

Second. All that other lot of land in Brookline, being part of the old farm, so called, containing by estimation forty-six thousand eight hundred and twenty-six square feet, be the same more or less, bounded southwesterly by Harvard Street one hundred and sixty-seven $\frac{81}{100}$ feet, northwest by Aspinwall Avenue, a county road fifty feet wide, two hundred and ninety-nine $\frac{28}{100}$ feet, northeast by

a town road called Brook Street one hundred and forty-three $\frac{67}{100}$ feet, and southeast by land of Archbishop John J. Williams three hundred and three $\frac{25}{100}$ feet.

Third. All that other lot of land in Brookline, also part of said old farm, containing by estimation forty-seven thousand five hundred and thirteen square feet, be the same more or less, bounded northwest by Aspinwall Avenue two hundred and ninety-six feet, southwest by Brook Street one hundred and twenty-nine $\frac{35}{100}$ feet, south by said Brook Street on a curved line of forty feet radius, about thirty-six $\frac{45}{100}$ feet, and by Brook Street by a straight line, one hundred and eighty-five, $\frac{6}{100}$ feet, east by land reserved by me and not hereby conveyed, by a line drawn perpendicular to Brook Street, ninety-one feet, and by a line normal to the curve of Aspinwall Avenue, one hundred and thirty-one feet; the three points in the east lines of the lot hereby conveyed are also to be marked by stone bounds placed in the ground by Aspinwall and Lincoln, civil engineers, to be assisted by any other engineers chosen by the grantees, if they desire so to do.

Fourth. All that other lot of land in Brookline, also part of said farm, containing by estimation twenty-three thousand four hundred and eleven square feet, be the same more or less, bounded north by Aspinwall Avenue one hundred and fifty-one feet, east by a town road called Perry Street two hundred and forty-four $\frac{24}{100}$ feet, south by Brook Street fifty feet, and west by land reserved by me and not hereby conveyed, by a line at right angles to Brook Street, two hundred and thirty-two feet; and the two points in the west line of the lot hereby conveyed are also to be marked as aforesaid by stone bounds placed in the ground. This and the lots secondly and thirdly de-

scribed in this deed are subject to the terms of the indenture between the said Thomas Aspinwall and Augustus Aspinwall, dated May 12, 1863, and recorded with Norfolk Deeds, Lib. 319, fol. 116, by which indenture the said Augustus has a right to drain the water naturally being in a piece of his ground on the north side of said avenue, through the old culvert and brook; but no right whatever to drain any building or vault or any offensive or injurious matter whatever into said culvert or brook, is hereby reserved, but any such right is expressly denied, and the construction by the town of the sewer under Brook Street, and the connection therewith of the drain under Aspinwall Avenue, practically ends this right.

Portions of the premises herein secondly, thirdly and fourthly described, are subject to three mortgages made by me, one to William I. Bowditch, trustee, for seven thousand dollars, dated Nov. 14, 1877, and recorded Lib. 495, fol. 38, one to the same for forty-two hundred and fifty-one $\frac{2}{100}$ dollars, dated Jan. 9, 1878, and recorded Lib. 496, fol. 307, and one to Tappan E. Francis for six thousand dollars, dated Feb. 13, 1878, and recorded Lib. 498, fol. 76.

Fifth. Also all that other lot of land in Brookline, containing by estimation one hundred and eighty-five thousand eight hundred and thirteen square feet, be the same more or less, with the Stedman house and barn (so called) thereon standing, bounded west by Perry Street two hundred and thirty-six $\frac{43}{100}$ feet, north and northeast by Aspinwall Avenue about five hundred and ninety-six $\frac{55}{100}$ feet, more or less, southeast by land by me conveyed to Watts H. Bowker seventy-seven $\frac{84}{100}$ feet, northeast by the same fifty-two $\frac{15}{100}$ feet, northwest by the same

seventy-seven $\frac{94}{100}$ feet, northeast again by Aspinwall Avenue fifty feet, southeast by land by me conveyed to Emily Toussaint seventy-nine $\frac{69}{100}$ feet, northeast by the same sixty-three $\frac{12}{100}$ feet, northwest by the same eighty-three $\frac{33}{100}$ feet, northeast by Aspinwall Avenue three hundred and sixteen feet, southeast by a townway forty feet wide (laid out in the line of the extension southwesterly of Kent Street) two hundred and thirty-seven $\frac{86}{100}$ feet, and southwest and south by Brook Street about ten hundred and sixty-six $\frac{92}{100}$ feet, more or less. Nearly all the premises formed part of said old farm, but the title to a small portion of it comes under the deed from the Emigrant Savings Bank to me, dated June 20, 1878, and recorded Lib. 502, fol. 153; and the title to the Stedman lot, so called, has become revested in me by the transfer of two mortgages on the same, — one given by Thomas Aspinwall to the Franklin Savings Bank, for eight thousand dollars, dated Feb. 25, 1868, and recorded Lib. 364, fol. 159, and the other given by George E. Stedman to said bank for three thousand dollars, dated Feb. 28, 1872, and recorded Lib. 420, fol. 106 (both of which mortgages and the notes thereby secured I now hold; see Lib. 509, fol. 145), — and a deed to me from said Stedman, dated Jan. 2, 1879, and recorded Lib. 509, fol. 144. The Stedman lot and some land adjoining is subject to my mortgage to said Franklin Savings Bank for ninety-four hundred dollars, dated March 3, 1879, and recorded Lib. 509, fol. 146, and that portion of the granted premises which was conveyed to me by the Emigrant Savings Bank is subject to my mortgage to said bank for twenty thousand dollars, dated June 20, 1878, and recorded Lib. 502, fol. 133. A drain in fact runs

over part of the Stedman lot from Aspinwall Avenue, and the same is now connected with Brook Street Sewer, but no other person than myself has any right to use the same.

Sixth. Also all that other lot of land in Brookline, being all that part of lots shaded red, blue and green on plan recorded with Norfolk Deeds, Lib. 438, fol. 152, conveyed to me by the Emigrant Savings Bank by deed before mentioned, which lies south and southwest of Brook Street, containing one hundred and seventeen thousand nine hundred and twenty-four square feet, be the same more or less, with the dwelling-house and barn thereon standing, bounded north and northeast on Brook Street six hundred and seventy-nine $\frac{50}{100}$ feet, be the same more or less, southeast by land of Daniel Doane two hundred and eighty-one $\frac{15}{100}$ feet, more or less, south by the same ninety-five feet, southwest by an avenue twenty-five feet wide, leading out into Linden Place, and through it to Harvard Street, one hundred and thirty-seven feet, west by land now or late of Michael Murphy seventy-eight $\frac{74}{100}$ feet, south by the same one hundred and thirteen $\frac{45}{100}$ feet, more or less, and southwest by a private way twenty feet wide, laid out by Thomas Aspinwall and Mortimer C. Ferris, by agreement dated July 6, 1867, and recorded Lib. 356, fol. 109, about one hundred and eighty-four $\frac{51}{100}$ feet, and with all my right to use said twenty feet way and the avenues therewith in fact connected, over Linden Place to and from Harvard Street; subject, however, always, to a just portion of the expense of keeping the same in good condition and repair. The premises hereby conveyed are subject to my mortgage to said Emigrant Savings Bank before referred to.

Seventh. Also all that lot of land in Brookline, part

of said old farm, containing by estimation forty-one thousand two hundred and fifty square feet, be the same more or less, bounded east by Toxteth Street two hundred and seventy-five feet, south by land now or late of Edward I. Thomas one hundred and fifty feet, west by lands of Woods and Gibson two hundred and seventy-five feet, and north by land of John J. Henry one hundred and fifty feet.

Eighth. Also all that other lot of land in Brookline, containing by estimation three hundred and eighty-three thousand two hundred and seventy-two square feet, be the same more or less, consisting of upland and salt marsh, the title to which comes partly under that of said old farm, and partly under deed from Augustus Aspinwall to Thomas Aspinwall, dated June 13, 1855, and recorded Lib. 238, fol. 38, and partly under deed from Darius Young to said Thomas Aspinwall, dated April 29, 1872, and recorded Lib. 423, fol. 306, bounded west by Toxteth Street five hundred and fifty-four $\frac{80}{100}$ feet, north by the division line between the granted premises and land late of Augustus Aspinwall, as established by indenture between said Thomas and Augustus, dated May 12, 1863, and recorded Lib. 319, fol. 116, two hundred and forty-one $\frac{27}{100}$ feet, east by said division line one hundred and two $\frac{52}{100}$ feet, north by the same two $\frac{84}{100}$ feet, northeast by the same by a ditch three hundred and seventy-two feet, north by marsh land belonging to the heirs of Robert S. Davis, deceased, by the middle of the creek as the same runs, southeast by the line of the location of the Brookline Branch Railroad and the location of the Brookline Main Sewer, about six hundred and forty feet, more or less, southwest by Aspinwall Avenue about one hun-

dred and ninety-nine $\frac{44}{100}$ feet, more or less, northwest by land devised by Thomas Aspinwall, and by me (by way of confirmation of such device) conveyed to Louisa E. Domville, one hundred and ninety $\frac{2}{100}$ feet, southwest by lots devised by said Thomas, and by me so conveyed by way of confirmation, to said Louisa and my children, William H. Aspinwall, Thomas Aspinwall and Mary A. Trull (see my deeds of said lots recorded Lib. 513, folios 92–94, and plan recorded therewith, fol. 93), by six lines as shown on said plan, four hundred and four $\frac{94}{100}$ feet, southeast by land so devised and conveyed to said Mary, one hundred and twelve $\frac{19}{100}$ feet, and southwest by Aspinwall Avenue two hundred and sixty-four $\frac{63}{100}$ feet, more or less.

It being understood that a good farm crossing at grade is to be forever afforded, free of expense, to the grantees across said railroad location, to be used by the grantees and their assigns at all proper times in going to and from the granted premises to and from other land hereinafter described on the east side of said location, and to be maintained by the Boston and Albany Railroad Corporation unobstructed forever, except by their railroad operations, as reserved in and by the deed from Charles Stearns to the Boston and Worcester Railroad Corporation, dated July 6, 1848, and recorded Lib. 182, fol. 35.

That portion of marsh land that was conveyed by Augustus Aspinwall to Thomas Aspinwall by deed before referred to, is conveyed with the right of way over land late of said Augustus and the heirs of said Robert S. Davis, as set forth or referred to in said deed; such right of way is to be of the same character as that heretofore used; and there is an ancient drain existing, which runs through

the ditch which divides this lot from land late of said Augustus; and all legal rights of other parties in this ditch are hereby reserved.

Ninth. Also all that other lot of land in said Brookline, part of said old farm, containing by estimation thirty-one thousand seven hundred and eighty-eight square feet of land, be the same more or less, bounded northeast by Aspinwall Avenue one hundred and twenty-two $\frac{21}{100}$ feet, northwest by said town way, forty feet wide, laid out in the line of the extension southerly of Kent Street, two hundred and forty-seven $\frac{22}{100}$ feet, southwest by Brook Street, as laid out and accepted by the town, and as enlarged by my conveyance to the town, dated June 21, 1879, and recorded Lib. 511, fol. 225, and southeast by the location of Brookline Main Sewer.

Tenth. Also all that other lot of upland marsh land and flats, almost wholly in Brookline, but a very small part also in Boston, containing by estimation three hundred and sixteen thousand four hundred and fifty-two square feet, more or less, bounded southeast by Brookline Avenue six hundred and twenty-one $\frac{34}{100}$ feet, southwest by Aspinwall Avenue, by two lines, four hundred and nine $\frac{87}{100}$ feet, northwest by the location of the Brookline Branch Railroad, on two lines, six hundred and twenty-four $\frac{10}{100}$ feet, north by the centre of the channel of the creek dividing these premises from land of the heirs of Robert S. Davis eighty-six feet, and northeast by land of Salome Davis, and others, the representatives of Isaac Davis, deceased, as the division line between our estates was settled by our mutual deeds Jan. 17, 1878, and recorded with Norfolk Deeds, Lib. 497, folios 257, 258, and with Suffolk Deeds, Lib. 1406, folios 289 and 290.

The channel of Muddy River runs through this lot, and the legal rights of the town and all persons and corporations to use this channel are hereby reserved.

The larger part of the premises comes under the title of the old farm. The title to another portion came under a deed from Darius Young; other portions from deeds of the Boston and Roxbury Mill Corporation to Thomas Aspinwall, dated December 23, 1856, and recorded with Norfolk Deeds, Lib. 251, fol. 200, of William A. Craft and Susan H. Gallup, heirs of Ebenezer Craft, dated April 14, 1870, and recorded with Suffolk Deeds, Lib. 998, fol. 256; and from deed of Salome Davis and others, before referred to. It is probable that some of the premises are held under the deed from Wm. Hancock and wife, dated January 10, 1857, and recorded with Norfolk Deeds, Lib. 252, fol. 125, but the bulk of what is thus conveyed by Hancock and wife is either under the playground or Aspinwall Avenue.

The granted premises are also conveyed subject to my mortgage to Henry Baldwin, trustee, for six thousand dollars, dated June 13, 1879, and recorded with Norfolk Deeds, Lib. 511, fol. 104.

Eleventh. Also all that other lot of land in Brookline, containing by estimation fifteen thousand one hundred and eighty-six square feet, be the same more or less, bounded southwest by a town road called Pearl Street, forty feet wide, about one hundred and sixty-one $\frac{94}{100}$ feet, north by land of the Brookline Gas Light Company one hundred and forty-six $\frac{10}{100}$ feet, east by land of the town of Brookline, bought by the town to be used, improved and maintained as and for a public square, park or common, and as such to be by the town kept open forever (see Lib. 407,

fol. 160), one hundred and seventy $_{1}^{41}{}_{00}$ feet, southwest by land now or late of Davis forty-seven $_{1}^{5}{}_{00}$ feet, and southeast by land of said Davis fourteen $_{1}^{74}{}_{00}$ feet, southwest by land of Condry about six $_{1}^{87}{}_{00}$ feet, and southeast by the same thirty-two $_{1}^{80}{}_{00}$ feet, be the same more or less. The title to these premises comes under three deeds to Thomas Aspinwall, one from Harrison Fay, dated May 24, 1856, and recorded Lib. 246, fol. 182, and two from Charles L. Palmer, one dated September 8, 1858, and recorded Lib. 269, fol. 94, and one dated November 13, 1860, and recorded Lib. 293, fol. 194.

Also all right, title and interest in and to the fee or soil of Aspinwall Avenue, Brook, Perry, Toxteth and Pearl Streets, and the location of the railroad and the main sewer; subject, however, to all legal rights in, over and under the same.

My title to each and all of the lots described in this deed, except where otherwise stated, comes through the will of my father, Thomas Aspinwall, above referred to.

All the premises conveyed by this deed are conveyed subject to the taxes for the year 1879–1880, which are to be paid by the grantees or said company as their own debt, and all of the premises in the neighborhood of the old farm are conveyed subject to any and all assessments, which have been or which may hereafter be laid on the premises, or any part or parts thereof, growing out of or in consequence of the construction of any and all sewers by the town, or the use of such sewers by me or my estate hitherto, and by the grantees or their estate in future; and the premises are conveyed subject also to all other assessments, if any there be.

To Have and to Hold the above released premises

to the said Browne and Bartlett, and their heirs and assigns, to their own use and behoof forever; as joint tenants, however, and not as tenants in common, and as trustees of the Aspinwall Land Company, for the uses and purposes of said company; with the fullest and most unlimited powers, as full and unlimited as if the trustees under this deed were the absolute owners of the granted premises, and in their own right to manage, lease, mortgage, sell and convey in fee simple, or for any less estate, all or any part or parts of the granted premises, at such time or times, to such person or persons, and for such considerations as shall seem to the trustees for the time being under this deed judicious, according to said declaration of trust, without the necessity for applying to any Court for leave to make any such lease, mortgage or deed; and no mortgagee or purchaser from the trustees under this deed shall in any possible event be bound to see to the application of the mortgage or purchase money, but the mortgage or deed, as the case may be, of any such trustees, duly executed, shall be as good and effectual in law and equity against all persons claiming by, through or under any trusts upon which said property may be held, as if made by persons acting in their own right, about their own property.

Any trustee under this deed may resign, by a declaration to that effect under his hand and seal, recorded in the Registry of Deeds for the counties of Suffolk and Norfolk; and on the death or resignation of a trustee, a new trustee may be appointed by the Court having jurisdiction of the subject matter, or in the way pointed out in the declaration of trust executed by said trustees, dated this day; but no new trustee shall be obliged to give bond

to the Judge of Probate in case of his appointment by the Court.

And I, the said grantor, for myself and my heirs, executors and administrators, do covenant with the said grantees and their heirs and assigns, that the premises are free from all incumbrances made or suffered by me, except as aforesaid; and that I will, and my heirs, executors and administrators shall warrant and defend the same to the said grantees and their heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under me, but against no other, and except those claiming under said incumbrances, or any or either of them.

In witness whereof, I, the said William Aspinwall, and Arixene S., my wife, who joins herein in token of release of all rights of dower and homestead exemption in the released premises, have hereunto set our hands and seals, this fourth day of February, in the year of our Lord one thousand eight hundred and eighty.

WILLIAM ASPINWALL. [seal]

ARIXENE S. ASPINWALL. [seal]

Signed, sealed and delivered in presence of (six words first interlined)

Thomas Aspinwall.

COMMONWEALTH OF MASSACHUSETTS.

Suffolk, ss. Boston, February 24, 1880.

Then personally appeared the above-named William

Aspinwall, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

CHARLES THORNDIKE,
Justice of the Peace.

DEDHAM, Feb. 24, 1880. Received and entered with Norfolk Deeds, Lib. 517, fol. 281.

Attest: J. H. BURDAKIN, *Reg'r.*

BOSTON, March 1, 1880.
At 2 o'clock and 20 min. P. M. } Received and entered with Suffolk Deeds, Lib. 1485, fol. 49.

Attest: THOS. F. TEMPLE, *Reg'r.*

DEED OF BOSTON LAND.

KNOW ALL MEN BY THESE PRESENTS: —

That I, William Aspinwall, of Brookline, in the County of Norfolk, Counsellor-at-Law, in consideration of one dollar and other good and valuable considerations to me paid by Edward I. Browne and Francis Bartlett, of Boston, in the County of Suffolk, Counsellors-at-Law, as they are Trustees for an unincorporated association of individuals known as the Aspinwall Land Company, under a declaration of trust dated this day, the receipt whereof is hereby acknowledged, do hereby grant, remise, release and forever quitclaim unto the said Browne and Bartlett and their heirs and assigns forever, but as Trustees as aforesaid, all that lot of land in Boston, containing by estimation forty thousand seven hundred and seven square feet, be the same more or less, bounded south by part of the northerly boundary line of the Back Bay Park, on a curved line drawn on a radius of three hundred and seventy-three $\frac{5}{10}$ feet, two hundred and fifty-seven $\frac{5}{100}$ feet, and by said northerly boundary on a straight line two hundred and forty-four $\frac{13}{100}$ feet, extended in the same direction westerly to the centre of the channel of Muddy River, as I believe such channel to run; west by the middle line of such channel about ninety-eight feet, north by land of Wm. A. Tappan four hundred and eighty-two feet, as such division is shown on the plan of Shedd and

Sawyer accompanying the partition made between me and said Tappan, accepted by the Probate Court for the County of Norfolk, April 4, 1877 (see the same recorded with Suffolk Deeds, Lib. 1371, fol. 25), and east by land formerly of Samuel Hammond and now or late of the Boston Water Power Company ten feet, be the same more or less.

The premises are conveyed subject to my mortgage to Martha B. Hooper for six thousand dollars, dated May 23, 1878, and recorded with Suffolk Deeds, Lib. 1431, fol. 270, and subject also to the taxes for the year 1879–80, and to any and all assessments for betterments which have been or may hereafter be laid on the premises, or any part or parts thereof, in consequence of or by reason of the laying out or construction of the Back Bay Park, or any streets in and about the same, or however otherwise said premises may be bounded, measured or described, being all of the same premises set off to me in said partition, except what I have conveyed to the City of Boston by deed dated May 23, 1878, and recorded with Suffolk Deeds, Lib. 1420, fol. 244.

There is a strip of flats adjoining the westerly lines of the lot so conveyed to the City, containing about four thousand square feet, more or less, the title to which I claim, and which I have by said deed agreed to convey to the City for ten cents a foot, when my title thereto shall be recognized as good by the City; and I accordingly release to said Trustees, subject to said contract for conveyance at that price per foot, all that piece of flats bounded east by the west lines of the lot so conveyed by me to the City, north by the premises above described, and west by the channel of Muddy River.

To Have and to Hold the above released premises to the said Browne and Bartlett, and their heirs and assigns, to their own use and behoof forever; but as joint tenants, however, and not as tenants in common, and as trustees of the Aspinwall Land Company, for the uses and purposes of said company; with the fullest and most unlimited powers, as full and unlimited as if the trustees under this deed were the absolute owners of the granted premises, and in their own right to manage, lease, mortgage and sell and convey in fee simple, or for any less estate, all or any part or parts of the granted premises, at such time or times, to such person or persons, and for such considerations as shall seem to the trustees for the time being under this deed judicious, according to said declaration of trust, without the necessity for applying to any Court for leave to make any such lease, mortgage or deed; and no mortgagee or purchaser from the trustees under this deed shall in any possible event be bound to see to the application of the mortgage or purchase money, but the mortgage or deed, as the case may be, of any such trustees, duly executed, shall be as good and effectual in law and equity against all persons claiming by, through or under any trusts upon which said property may be held, as if made by persons acting in their own right, about their own property.

Any trustee under this deed may resign, by a declaration to that effect under his hand and seal, recorded in the Registry of Deeds for the counties of Suffolk and Norfolk, and on the death or resignation of a trustee, a new trustee may be appointed by the Court having jurisdiction of the subject matter, or in the way pointed out in the declaration of trust executed by said trustees, dated

this day; but no new trustee shall be obliged to give bond to the Judge of Probate in case of his appointment by the Court.

And I, the said grantor, for myself and my heirs, executors and administrators, do covenant with the said grantees and their heirs and assigns, that the premises are free from all incumbrances made or suffered by me, except as aforesaid; and that I will, and my heirs, executors and administrators shall warrant and defend the same to the said grantees and their heirs and assigns forever, against the lawful claims and demands of all persons claiming by, through or under me, but against no other, and except those claiming under said incumbrances, or any or either of them.

In witness whereof, I, the said William Aspinwall, and Arixene S., my wife, who joins herein in token of release of all rights of dower and homestead exemption in the released premises, have hereunto set our hands and seals this fourth day of February, in the year of our Lord one thousand eight hundred and eighty.

WILLIAM ASPINWALL. [SEAL]
ARIXENE S. ASPINWALL. [SEAL]

Signed, sealed and delivered
in presence of (six words
first interlined)

Thomas Aspinwall.

COMMONWEALTH OF MASSACHUSETTS.

Suffolk, ss. Boston, Feb. 24, 1880.

Then personally appeared the above-named William

Aspinwall, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

CHARLES THORNDIKE,

Justice of the Peace.

BOSTON, Feb. 24, 1880.

At 2 o'clock and 22 min. P. M } Received and entered with Suffolk Deeds, Lib. 1484, fol. 189.

Attest: THOS. F. TEMPLE, *Reg'r.*

DECLARATION OF TRUST.

WHEREAS, William Aspinwall, by deeds dated this day, has conveyed to us, Edward I. Browne and Francis Bartlett, as trustees of the Aspinwall Land Company, so called, certain lands in Brookline and Boston, specially described in said deeds, and with the rights to manage, lease, mortgage and sell the property at our free will and pleasure, as set forth in said deeds, to which reference is hereby made: Now, in order to define certain other trusts upon which the property is held by us, we, the said Edward I. Browne and Francis Bartlett, hereby declare that we hold said property, —

First. Upon the trusts, and for the uses and purposes, and with the rights, powers and duties imposed on us by said deeds. But nevertheless, we reserve the right at any and all times, and for so long time as we shall think fit so to do, to devolve on said company, acting through its directors, and in accordance with its articles of association, the entire or partial control of and management of said property, and with such control, the entire or partial right to direct us what leases, mortgages and deeds we shall make and execute; and we accordingly, in virtue of the power thus reserved by us, do hereby and now devolve upon said company and said directors the entire control and management of said property, in accordance with its articles of association, until such time as we or our suc-

cessors in said trust shall think best to resume the rights, powers and duties devolved on us by said deeds of said Aspinwall. By this act we retain in our hands the rights to execute all leases, mortgages and deeds which may or should be properly executed by us in behalf of said company, and as desired by said company or its directors, pursuant to this declaration and the articles of association, and all such leases, mortgages and deeds executed, acknowledged and delivered by us shall be and be deemed binding both at law and in equity, to all intents, constructions and purposes, upon all persons claiming by, through or under the trusts of said deeds and this declaration: and no mortgagee or purchaser from us shall in any possible event be bound to see to the application of the purchase money.

The trustees for the time being may, however, at any time resume the entire or partial control and management of the trust property, and thus end wholly or partially, as the case may be, the managing power of the company and directors, by recording in the Registry of Deeds for the counties of Suffolk and Norfolk a declaration under their hands and seals to that effect.

Second. So long as the management of the property shall remain in the hands of the company or its directors, the trustees shall sell the trust property together or in parcels, and either by public auction or private contract, and shall convey the premises so sold to the purchaser or purchasers thereof, and shall pay over the sale moneys to the Aspinwall Land Company, or permit the said company to receive the same. But the said company shall have full discretion to determine the time, place, manner and terms of every such sale and all matters relating

thereto, and the trustees shall enter into such agreements in writing to sell and convey, and shall sell and convey the trust property or any part or parts thereof, to such purchaser or purchasers, upon such terms (which may include the acceptance of a mortgage or mortgages to the trustees, of the whole or part of the real estate sold, or other security for the whole or part of the sale money) as the said company or its directors shall from time to time require, in the manner provided or authorized by any articles of association which it may have adopted and which shall then be in force.

Third. So long as the management of the property shall remain in the hands of the company or its directors, and until the whole of the trust property shall be so sold, the trustees shall permit the said company to occupy and manage the trust property, or the part thereof for the time being unsold, and to convert and appropriate any part or parts thereof into and for roads, streets, ways, squares, open spaces or pleasure grounds, to build or provide drains, sewers and other conveniences, and generally to improve and deal with the same according to its discretion under the said articles of association. And the trustees shall make leases and mortgages, and shall exchange the trust property or any part thereof, for any other lands and hereditaments to be conveyed to the trustees upon the trusts herein declared concerning the trust property, and shall sell any rights, easements or conveniences in, over or upon the trust property or any part thereof, and exchange any such rights, easements or conveniences for any rights, easements or conveniences in, over or upon any lands near or adjoining the same, and shall enter into agreements in writing for such sales,

leases, mortgages and exchanges, whenever, and in such manner and upon such terms (which may include the acceptance of security for the whole or part of any money to be paid in respect thereof) as the said company or its directorss hall require, in the manner provided or authorized by the said articles of association.

Fourth. So long as the management of the property shall remain in the hands of the company or its directors, every deed and instrument for any purpose hereof shall be prepared by the said company, and shall be duly executed, acknowledged and delivered by the trustees, whenever the said deed or instrument shall be presented to the trustees, certified by the clerk of the said company as approved by the directors, accompanied by a copy of a vote of the directors requiring the trustees to execute, acknowledge and deliver the same, which copy shall also be certified by the clerk.

Fifth. No deed or instrument to be executed by the trustees shall contain any covenant, either express or implied, or any other matter or thing which shall impose a personal liability upon the trustees or the said company or its members or shareholders.

Sixth. The trustees shall not be obliged to incur any expense or personal liability in respect of the execution of any of the trusts herein declared,

Seventh. So long as the management of the property shall remain in the hands of the company or its directors the trustees shall pay over to the said company, or permit the said company to receive all sums of money arising from sales, leases, mortgages or agreements, or receivable for equality of exchange or otherwise, in respect of any of the trusts herein declared and shall deliver over to the

said company, or permit it to receive, all deeds, instruments, securities and things which the trustees may receive or be entitled to receive, for or under any of the trusts or purposes hereof.

Eighth. All the trust property shall, for the purposes of the trusts herein declared for the said company, be considered as converted in equity into money from the time of the execution of these presents, and the profits or income produced from the same previously to the sale thereof shall be applied in the same manner as if the same were income proceeding from the investment of the sale money in personal securities. The said company, its members and shareholders, shall have no equitable estate in the lands and hereditaments constituting the trust property, and its and their interest shall consist only of an interest in the money to arise from the sale thereof, or otherwise as herein provided, and the rights hereinbefore mentioned previously to such sale, and shall be transmissible as personal estate.

Ninth. If at the expiration of twenty years from the decease of the last survivor of the said Edward Ingersoll Browne, the said Francis Bartlett, and William Aspinwall, John W. Candler, William L. Candler, William H. Lincoln, George C. Barrett, Henry Sayles, John R. Brewer, M. P. Kennard, N. A. Frye, Augustine Shurtleff, it shall happen that any of the trust property shall remain unsold, then all the discretion and authority of the said company in respect of the sale thereof shall cease, and the trustees shall immediately sell the same, together or in parcels, and either by public auction or private contract, without any interference on the part of the said company, and the net proceeds arising from the sale shall be paid over to

the said company; and the said proceeds, together with all other money and property that shall have arisen from the trust property, shall, after payment of the debts of said company, be paid over to the members thereof in proportion to their shares.

Tenth. All deeds and agreements in writing executed by the trustees, and purporting to be for a valuable consideration, shall be valid and effectual, both in law and equity, in favor of all persons claiming under them; and no purchaser or other person shall be obliged to ascertain the existence of any circumstances, or the concurrence, consent, requirement or approval of the said company or its directors, or any matter or thing connected with the validity, propriety or regularity of any sale, conveyance, exchange, mortgage or agreement made by the trustees.

Eleventh. The receipts of the trustees, or of any person authorized in writing by them to receive money for them, to purchasers or others for money, securities and things paid, transferred or delivered to the trustees or to such authorized person, shall be sufficient discharges for the same and from all liability to see to the application thereof.

Twelfth. Either of the trustees for the time being may resign his trust by a written instrument under his hand and seal, acknowledged by him in the manner prescribed for the acknowledgment of deeds. Such instrument shall be recorded in the Registries of Deeds for the counties of Suffolk and Norfolk, and such record shall be deemed a sufficient delivery. And whenever from any cause the number of trustees shall be less than two, a new trustee or trustees shall be appointed by a Court having jurisdiction in the premises, to fill such vacancy or vacan-

cies. And it shall be the duty of the directors of the said company and the surviving or remaining trustee, if any, to petition such Court to appoint a person or persons named in such petition, or some other suitable person or persons, to be a trustee or trustees to fill such vacancy or vacancies. And every trustee appointed by the Court (whether upon such petition or otherwise) shall have the same estate, rights and powers, and be subject to the same duties as the trustees named in this deed. The expression "the trustees" shall throughout this deed be construed as comprising and including the trustees or trustee for the time being, whether named herein or hereafter to be appointed, in respect of the trusts herein declared, and all the trusts and powers hereby vested in "the trustees" shall be vested in and exercisable by such trustees or trustee for the time being. The trustees herein named, and all persons who shall hereafter be appointed trustees in the premises, are exempted from giving any bond.

If at any time two thirds in value of stock in said company shall request the resignation of any trustee of said company, such resignation shall be immediately tendered and consummated in the manner hereinbefore set forth.

In witness whereof, we, the said Edward Ingersoll Browne and Francis Bartlett, have hereunto set our hands and seals this fourth day of February, in the year one thousand eight hundred and eighty.

EDWARD INGERSOLL BROWNE. [seal]

FRANCIS BARTLETT. [seal]

COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK, ss. BOSTON, February 24, 1880.

Then personally appeared the above-named Edward I. Browne and Francis Bartlett and acknowledged the same respectively to be their free act and deed.

Before me,

CHARLES THORNDIKE,
Justice of the Peace.

BOSTON, Feb. 24, 1880.
At 2 o'clock and 33 min. P. M. } Received and entered with Suffolk Deeds, Lib. 1484, fol. 195.

Attest: THOS. F. TEMPLE, *Reg'r.*

DEDHAM, March 1, 1880. Received and entered with Norfolk Deeds, Lib. 517, fol. 311.

Attest: J. H. BURDAKIN, *Reg'r.*